Report of the Select Committee on the "Departmental Enquiries Bill."

We the Members of the Select Committee appointed to consider the Departmental Enquiries Bill, beg to report as follows:—

We have introduced in the preamble the words "and to regulate other matters" after the word "oaths" and omitted the word "and" between the words "witnesses" and "administer." This was found necessary owing to the amendments made in the body of the Bill of which we will speak further on.

In section 2 of the Bill, we have dropped the expressions "or preliminary" and "authority of general." We are of opinion that the provisions of the Bill should not apply to preliminary enquiries. Such enquiries are generally started upon the complaint of some individual and held by local officers. The complainants will, as a rule, produce the necessary evidence without any extraneous help. The officer may advantageously proceed to the spot and personally ascertain what evidence is forthcoming in support of the accusation. He will seldom feel the necessity to summon witnesses. It is not, in our opinion, desirable that preliminary enquiries which may not often be conducted by officers of high rank, should be invested with the solemnity of a judicial proceeding by requiring the examination of witnesses on oath. We further think that no final enquiry into the conduct of a public servant should be held except under the special orders of Government. A general order of Government cannot be expected to deal in detail with the varying circumstances of each case.

In section 3, we have omitted the words "a Police officer or by" and also the word "other" with a view to prevent the unnecessary employment of the Police in serving processes, to the detriment of their important duties. The officer conducting the enquiry will use his discretion as to the agency to be employed for the service of processes. As a rule, such officer will be the Head of a Department, who has a number of peons at his disposal. In practice, no incovenience is likely to be felt by the amendment we have made.

We have recast sections 5 and 6 so as to make it clear that the accused in departmental enquiries has all the rights and privileges which the accused in criminal cases possess, with the additional one of tendering himself for examination on oath, should he consider such a step advisable in his own interests.

We have added a new section which is numbered 9, incapacitating the officer who holds a preliminary enquiry from taking part in the final enquiry. The reasons are so obvious that they need not be stated.

Sections 1, 4, 7 and 8 of the Bill remain unaltered.

We recommend that the Bill as settled by us be published for public information, together with the original Bill and the Statement of Objects and Reasons, before it is taken up for consideration in the Legislative Council.

K. Krishnaswamy Row.
F. Watts.
V. Nagam Aiya.

18th November 1893.

Memo.

There is only one point in which I have not been able to agree with my brother Members of the Committee and that point appears to me to be of some importance viz. so far as section 8 affects the public servant's statement on oath. A statement is believed or disbelieved according to the weight due to the person making it—and not as it is given on oath—or not. The departmental enquiry will bring its own consequences to the public servant concerned, and in his attempt to escape those consequences, he should not, I think, be exposed to the risk of another criminal prosecution for a false statement. The position of a public servant becomes thus worse than that of any other ordinary accused in criminal cases. For purposes of a departmental enquiry, a public servant's statement on oath will practically be no better than his explanation or defence. If so, we ought to look upon his sworn testimony as good only as an accused's statement, and save him from criminal liability for the accuracy or otherwise of what is contained in it.

In the other conclusions we have arrived at, I am fully at one with the Committee.

V. Nagam Aiya.

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